

REMARKS UNDER 37 CFR § 1.111

Formal Matters

Claim 28 is pending after entry of the amendments set forth herein.

Claims 1-5, 27, 29 and 30 have been canceled and claim 28 has been amended to more particularly point out and distinctly claim the invention.

The amendments to claim 28 are fully supported within the originally filed application. Specifically, the peptide of SEQ ID NO.:18 is specifically claimed within original claim 3. Indications that the peptide may be substantially purified or isolated as claimed within claim 28 is described in the specification such as at page 10, in paragraph 55. Typical pharmaceutical formulations which may include an isolated peptide of the invention are described in the specification such as beginning on page 14 at paragraph 75 and continuing on page 18 at paragraph 92.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached is captioned "**VERSION WITH MARKINGS TO SHOW CHANGES MADE.**"

Applicants respectfully request reconsideration of the application in view of the amendments and remarks made herein.

No new matter has been added.

• Objections to Declaration

The Declaration was objected to as being defective in that the address of Frauke Bentzien was not initialed. However, applicants point out that the inventor's signature appears over the changes of the address clearly indicating that the inventor signed the Declaration with the changes and dated the Declaration as required. Accordingly, applicants respectfully request reconsideration and withdrawal of the rejection and acceptance of the Declaration as filed.

Rejection under 35 U.S.C. §112, first paragraph

Claim 28 was rejected under 35 U.S.C. §112, first paragraph. The objection related to language which has now been deleted from claim 28. Accordingly, the rejection is now believed to have been overcome.

Claims 1, 2, and 27 were also rejected under 35 U.S.C. §112, first paragraph. These rejections have been rendered moot with the cancellation of claims 1, 2 and 27 from the application.

Rejection under 35 U.S.C. §102

Claims 1, 2 and 27 were rejected under 35 U.S.C. §102 as anticipated by U.S. Patent 4,189,426. The rejection has been rendered moot by the cancellation of these claims from the application.

Rejection under 35 U.S.C. §103

Claim 3 was rejected under 35 U.S.C. §103 as unpatentable over U.S. Patent 4,189,426 to Li in view of U.S. Patent 4,853,332 to Marks et al.

This rejection has also been rendered moot by the cancellation of claim 3 from the application. In view of such all of the objections and rejections raised are overcome or rendered moot.

The '426 patent to Li does not disclose the isolated peptide having the amino acid sequence of SEQ ID NO:18. Further, the '426 patent does not disclose such an isolated sequence present in a pharmaceutically acceptable carrier. Still further, Li does not disclose such a composition, i.e. the peptide in a carrier having the properties such as the anti-angiogenic properties as described in the present application. Still further, absent the teachings of applicants there is no reason for combining the '426 patent with the '332 patent in order to obtain a peptide such as that of SEQ ID NO:18 or to expect the anti-angiogenic properties. In view of such reconsideration and allowance of amended claim 28 is respectfully requested.

Conclusion

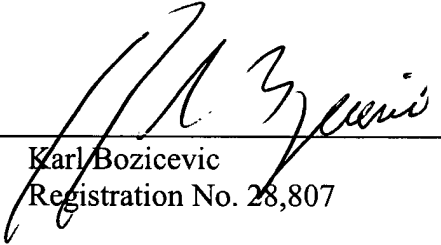
All of the claims but for claim 28 have been canceled. Claim 28 has been amended to delete the language objected to. The peptide of claim 28 is not disclosed in the cited art nor is a composition comprised of the peptide present in a carrier. Further, such a composition having anti-angiogenic properties is not taught in the cited art. The declaration is believed to be proper in that the changes written in by the applicant are actually signed and dated by the applicant thereby not requiring further initialing. The other objected to or rejected claims have been canceled from the application. Accordingly, the application is believed to be in condition for allowance and an indication of such is respectfully requested.

Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number UCSF-264CON.

Respectfully submitted,
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Date: 26/FEB/03

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

Please cancel claims 1-5, 27, 29 and 30.

28. (Amended) An isolated peptide having an amino acid sequence of SEQ ID NO:18 present in a pharmaceutically acceptable carrier [in a concentration in a range of from about 0.8 to about 1 nM].